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9. In an action against a railroad company for the death of a roundhouse "hostler" crushed to death between a building near the track and a tender on which he was riding in the usual way, but which was larger than any tender previously used in the yards, evidence *held* to justify submission to the jury of the issue of defendant's negligence.

RICHMOND, F. & P. R. CO. v. JOHNSTON et al.

January 12, 1905.

[49 S. E. 496.]

HIGHWAYS—POWER TO CONDEMN RAILROAD PROPERTY.

1. The general power to condemn land, conferred by Code 1887, secs. 1095, 1096, which authorizes the crossing of railroad tracks by a highway, is insufficient to authorize the condemnation for highway purposes of property purchased and used by a railroad company for station grounds and yards.

WARNER MOORE & CO. v. WESTERN ASSUR. CO.

January 12, 1905.

[49 S. E. 499.]

REFORMATION OF INSTRUMENT—INSURANCE POLICY—SUFFICIENCY OF EVIDENCE.

1. Evidence in a suit to reform a policy of insurance on a stock of goods, which described the goods as being in a building other than where situated, considered, and *held* sufficient to show that the error was made by mutual mistake, and to require a reformation of the policy.

NORFOLK RAILWAY & LIGHT CO. v. SPRATLEY.

January 12, 1905.

[49 S. E. 502.]

ELECTRICITY—INJURY FROM LIVE WIRE—PRESUMPTION OF NEGLIGENCE—REBUTTAL OF PRESUMPTION—EVIDENCE—SUFFICIENCY—PROXIMATE CAUSE—HARMLESS ERROR—EXPERT TESTIMONY—INSTRUCTIONS—DAMAGES.

1. Electric companies are not insurers against accidents, but they are held to a high degree of care in the construction and maintenance of their dangerous appliances.

2. The fact that a child was injured by picking up a live electric wire which had fallen to the sidewalk created a presumption of negligence on the part of the corporation owning and maintaining the wire.

3. In an action for injuries sustained by a child by picking up a live electric wire that had fallen to the sidewalk, the testimony of a lineman that he looked over the wires every day, and that between 6 and 7 o'clock in the morning of the day of the accident he had looked over the wire in question, and had found it all right, was not sufficient to remove the presumption of negligence on the part of the corporation owning and maintaining the wire.

4. The presumption of negligence which arises from an injury to a pedestrian in a public street from a broken electric wire is not overcome by testimony of